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ABSTRACT

The right of all children to an education free from discrimination due to race, color, or national origin is protected through the Department of Health, Education and Welfare's administrative enforcement mechanism and the Federal courts' equity powers. Yet, between 1954 and 1970, neither had seriously attacked the segregation of Mexican American, Puerto Rican, and Native American children or the "invidious discriminatory practices" utilized by school districts in operating educational programs. In 1969, the Office for Civil Rights began a review of civil rights and educational literature pertaining to discrimination against national origin minority group children. The May 25 Memorandum, a departmental policy statement creating a set of operating principles which would adequately protect these children's right to an equal educational opportunity, was developed. Also developed were: (1) a technique for investigating and a format for proving noncompliance with the memorandum's various sections which would meet legal requirements and could be presented to field staff for implementation; (2) an educational assistance capability in the department to assist the office in negotiating compliance with the memorandum's provisions; and (3) additional policies to particularize those discriminatory practices which resulted in noncompliance with the memorandum. (NQ)

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CULTURAL FREEDOM IN THE SCHOOLS: The Right of Mexican-American Children to Succeed

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There are two major legal channels through which the Federal Government seeks to protect the right of all children to an education free from discrimination on the basis of race, color, or national origin: the administrative enforcement mechanism of the Department of Health, Education and Welfare and the equity powers of the Federal courts.

The Courts

The Courts of the United States are empowered to protect the rights of minority children pursuant to Section 1 of the Fourteenth Amendment to the United States Constitution which provides that "No state shall . . . deny to any person within its jurisdiction the equal protection of the laws." For over 80 years the Federal courts wrestled with the problem of whether state imposed segregation of blacks and whites violated the equal protection command. In Plessy v. Ferguson[1/] (a case involving public transportation), the Supreme Court in 1896 announced a "separate but equal" doctrine prefaced on an assertion that equality of treatment is accorded when the races are provided substantially equal facilities.

Having carefully reserved judgment in Sweatt v. Painter[2/] on the applicability of the Plessy doctrine to public education, the Supreme Court in 1954 in Brown v. Board of Education[3/] declared that the segregation of children in public schools solely on the basis of race, even though the physical facilities and other "tangible" factors may

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1/ 163 U.S. 537 (1896)
2/ 339 U.S. 629 (1950)
3/ 347 U.S. 483 (1954)

be equal, deprives children of the minority group of the equal protection of the laws. The court buttressed its declaration with an educationally compelling analysis:

> To separate them [black children] from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.4/

The next sixteen years of the Supreme Court's activity (most recently evidenced by Swann v. Charlotte-Mecklenburg 5/ and its companion cases) in the school desegregation/discrimination area has been exclusively devoted to the elimination of the dual-school system utilized by school districts in seventeen Southern and border States 6/ to accomplish the segregation of black and white students in separate schools.

While the Supreme Court has never directly addressed the question of discrimination in public education against Mexican-American, Puerto Rican, native American or other minority group children, it is implicit in the equal protection guarantee that the same principles enumerated in the Brown decision extend to all minority children. Court ordered desegregation plans in Texas from 1954 to 1970 usually treated Mexican-American children as "white" for purposes of student assignment. 7/

4/ 347 U.S. 485

5/ ___ U.S. ___ (1971)

6/ Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

7/ In Perez v. Sonora Independent School District the Department of Justice intervened on behalf of the United States in order to seek relief for Mexican-American children segregated and discriminated against in schools of the district on the basis of their national origin. A final decision in the case is still pending.

Issues related to the treatment of children within desegregated schools, including those related to in-school segregation and equal access to the full benefits of public education, have not been considered by the Court.

The Executive Branch

Pursuant to paragraph five of the Fourteenth Amendment, the Congress passed the Civil Rights Act of 1964 which provides in Title VI that the Executive Branch establish an enforcement mechanism so as to ensure that

> No person in the United States shall, on the ground or race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (Sec. 601, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d)

The ultimate sanction available under the enforcement mechanism is the termination of the eligibility of a school district to receive Federal financial assistance.[8/]

The Secretary of Health, Education and Welfare has delegated enforcement responsibilities of the Department (related to recipients of Federal health, education and welfare assistance)

to the Office for Civil Rights.

From 1965 to early 1969 the Office for Civil Rights, Education Branch was primarily pursuing the elimination of the Southern dual

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8/ Section 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d.

(black-white) school systems. To this end, the Department negotiated over 800 voluntary desegregation plans, employing the termination procedure (a last resort) in over one hundred school districts. The primary focus of this effort to eliminate discrimination was on the assignment of students and teachers to the schools of a district. Little attention was paid to the vital issue of educational rights and opportunities within the desegregated schools which resulted.

Desegregation plans accepted from Texas school districts in most cases failed to significantly effect the discriminatory treatment of Mexican-American students. "Desegregation" of blacks and Mexican-Americans (rather than desegregation among blacks, Anglos and Mexican-Americans) often resulted.

To summarize, between 1954-1970 neither the courts nor the Executive Branch seriously attacked either the segregation of Mexican-American, Puerto Rican and native American children or the invidious discriminatory practices utilized by school districts in the operation of educational programs within schools.

The Development of the May 25 Memorandum

In September of 1969, the Office for Civil Rights began a review of civil rights and educational literature addressed to the question of discrimination against national origin minority group children. As of the Fall of 1968, according to the Elementary and Secondary School

survey conducted by OCR, 2,541,573 Mexican-American; 719,730 Puerto Rican; 240,700 American Indian and 194,022 Oriental children were enrolled in the public schools. The review was in part prompted by complaints from the community that the Office had failed to investigate and identify invidious discriminatory aspects of school district operations which used the cultural and linguistic differences of Mexican-American children both to segregate such children within schools and to categorically deny them equal educational opportunity. Massive evidence of the systematic lower achievement of minority group children and the existence of large numbers of segregated homogenous ability grouping and special education classes was accumulated.[9/]

This review together with discussions with the Commissioner of Education and members of his staff led to the conclusion that Mexican-American children were, as a group, in many school districts, being excluded from full and effective participation in, and the full benefits offered by, the educational programs operated by such districts. At approximately the same time a Report by the Texas Advisory Committee to the U. S. Commission on Civil Rights was being finalized. The Report summarized:

> In the field of education the Texas State Advisory Committee has found that the meaning of "equal educational opportunity" has not been fully understood by those people in a position to bring about truly

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9/ The U. S. Commission on Civil Rights provided and has continued to provide valuable data on the segregation of Mexican-American children.

> equal educational opportunity. For such opportunity encompasses more than the mere elimination of tangible differences--differences in buildings, books, and teachers. It is the feeling of this Committee that the basic premise of our system of free public education rests on each man's right to an education which will allow him to develop his capabilities to his full potential. If an educational system is so designed that, in general, only white Anglo middle class students can achieve their maximum potential, such a system violates the Constitution of the United States.
>
> We can no longer remain under the illusion that a system designed to teach a young Anglo student from Boston or Dallas will work equally well for a Puerto Rican youth in East Harlem, a Mexican-American in San Antonio, or a black student in Houston. The school systems must begin to take into account that background and the special needs of their students and alter teaching methods and educational concepts accordingly. In fact, our schools should take advantage of the prevailing differences in culture and language to enrich their intellectual content. In a world as small as ours it makes no sense to teach thousands of students only in English. It is wrong and shortsighted to teach American and Texas history without the inclusion of contributions made by blacks and Mexican-Americans.10/

The Office for Civil Rights moved to prepare a departmental policy statement in order to create a set of operating principles which would adequately protect the rights of national origin minority group children to a truly equal educational opportunity. The drafting of the policy statement (Memorandum to School Districts) reflected the operational philosophy that school districts should create a culturally relevant educational program incorporating a sufficiently flexible educational

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10/ A Report of the Texas Advisory Committee to the U. S. Commission on Civil Rights (1970).

approach to assure equal access of all children to its full benefits. The burden, according to this philosophy, should be on the school to adapt its educational approach so that the culture, language and learning style of all children in the school (not just those of Anglo, middle class background) are accepted and valued. Children should not be penalized for cultural and linguistic differences nor should they bear a burden to conform to a school sanctioned culture by abandoning their own.

While the Memorandum was in the drafting stage, the President set forth in his Education Reform Message of March 9, 1970, some important policy guidance:

> Apart from the general public interest in providing teachers an honorable and well-paid professional career, there is only one important question to be asked about education: <u>What do the children learn</u>?
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> * * *
>
> The outcome of schooling--what children learn--is profoundly different for different groups of children and different parts of the country. Although we do not seem to understand just what it is in one school or school system that produces a different outcome from another, one conclusion is inescapable: <u>We do not yet have equal educational opportunity in America</u>.
>
> * * *
>
> This Administration is committed to the principle and the practice of seeing to it that equal educational opportunity is provided every child in every corner of this land.

> I am well aware that 'quality education' is already being interpreted as 'code words' for a delay of desegregation. We must never let that meaning take hold. Quality is what education is all about; desegregation is vital to that quality; as we improve the quality of education for all American children, we will help them improve the quality of their own lives in the next generation.11/

As finally issued on May 25, 1970, the Memorandum identified four major areas of concern relating to compliance with Title VI:

> (1) Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students.
>
> (2) School districts must not assign national origin-minority group students to classes for the mentally retarded on the basis of criteria which essentially measure or evaluate English language skills; nor may school districts deny national origin-minority group children access to college preparatory courses on a basis directly related to the failure of the school system to inculcate English language skills.
>
> (3) Any ability grouping or tracking system employed by the school system to deal with the special language skill needs of national origin-minority group children must be designed to meet such language skill needs as soon as possible and must not operate as an educational dead-end or permanent track.
>
> (4) School districts have the responsibility to adequately notify national origin-minority group parents of school activities which are called to the attention of other parents. Such notice in order to be adequate may have to be provided in a language other than English.

11/ President's Education Reform Message of March 9, 1970. Vol. 6, No. 10 Presidential Documents, pp. 305-306.

School districts were required by the Memorandum to determine their current compliance with Title VI. If the school district found itself either to be in noncompliance or to have questions about its compliance status, it was instructed to communicate with the Department as soon as possible on the understanding that technical assistance from the Department would be available.

Three Tasks

Even before the public release of the Memorandum on May 25, 1970, it became apparent that three separate tasks had to be completed before the Memorandum could become fully operational: (1) the development of a technique for investigating and a format for proving noncompliance with the various sections of the Memorandum which would meet legal requirements and which could be presented to field staff for implementation, (2) the development of an educational assistance capability in the Department to assist the office in negotiating compliance with the provisions of the Memorandum particularly with regard to new educational programs which might be available to school districts seeking to come into compliance, and (3) the development of additional policies to particularize those discriminatory practices in each area of the Memorandum which resulted in noncompliance.

Section 1

The program development staff of the Office for Civil Rights decided to conduct a series of pilot reviews in order to develop an effective method for proving noncompliance with Section 1 of the Memorandum.

From a legal standpoint, it was observed that three basic propositions needed to be proven in order to demonstrate noncompliance with that Section:

(1) national origin-minority students in the district enter the schools with different linguistic and cultural backgrounds which directly affect their ability to speak and understand the English language.

(2) national origin-minority students are excluded from effective participation in and the full benefits of the educational program (including success as measured by the district) of the district on a basis related to English language skills.

(3) the district has failed to take effective affirmative action to equalize access of national origin-minority students to the full benefits of the educational program.

Support for the first proposition was educed by the program development staff utilizing two different foci: (1) the collection and analysis of data related to the home language and culture of national origin minority children at the time they enter the system and (2) the collection and analysis of data related to the English language skills of the national origin minority children at the time they enter the system.

Data was separated into categories (e.g., performance on a specific test) and a criterion was developed for each data category which clearly indicated either a lack of facility with English language skills or the presence of primary home language skills in Spanish. The data was collected with a consistent bias against low achievement indicators. The folders from which the data was obtained were those of 1970-71 second graders. Consequently, low scoring students who failed or were held back in first grade were not included. Only clearly failing (as opposed to marginally failing) scores (based on data supplied by the test publishers) were utilized for the criteria.

The collection of evidence to support the second and third propositions was again separable into two different foci. The first, the synchronic focus, involved a review of the educational performance of all students at grade level during the same time period. The third and sixth grades were used as the sample grade levels and data was obtained from the results of the test utilized by the school system to evaluate academic performance/success of elementary school children. Investigation was focused on early childhood performance because of its clearly demonstrated educational significance. Because of the emphasis in the May 25 Memorandum on language skills, performance of students on sub-batteries of the test clearly keyed to language related skills was selected for close analysis.

The average raw score and percentile rank (only raw scores were averaged) of students of each ethnic group in each classroom were calculated. This analysis revealed, at the third grade level, an average performance gap between Mexican-American students and Anglo students in Vocabulary of -17 percentiles (35%ile vs 52%ile), in Language Skills of -9 percentiles (45%ile vs 54%ile), and in Composite Score of -16 percentiles (45%ile vs 61%ile).

At the sixth grade level, the performance gap between Mexican-Americans and Anglos had widened to an average of 28 percentiles in Vocabulary (21%ile vs 49%ile), 10 percentiles in Language Skills (44%ile vs 54%ile) and 28 percentiles in Composite Score (30%ile vs 58%ile).

A question arose as to whether Mexican-American students were actually losing ground year by year or whether the current third grade Mexican students were doing better than their sixth grade counterparts had done.

An analysis of the scores and percentile rankings of current eighth grade students (the diachronic focus) was made. The educational history of the class starting with performance on the standardized test administered at the third grade and terminating with performance on a compatibly normed seventh grade test revealed the following:

(1) 70% of the 8th grade Mexican-American students received lower percentile rankings on the 7th grade test than on the third grade vocabulary test; 84% of these students received lower percentile rankings on the 7th grade test vs 3rd grade

composite test; 82% of the students received lower percentile rankings on the 6th grade language skill test than on the 3rd grade test; 90% of the students received lower percentile rankings on the 6th grade composite test than on the 3rd grade test.

(2) The average decline of Mexican-American students in percentile rankings (compared with their earlier performance against national norms) varied from a decline of 15.1 percentiles in Language Skills to a decline of 20.5 percentiles in Vocabulary.

(3) As measured against their Anglo counterparts, the performance gap of Mexican-American students had increased from 10.4 percentiles in Vocabulary at the 3rd grade (36%ile vs 26%ile) to 29.5 percentiles at the 6th (52%ile vs 23%ile); from 11.2 percentiles in Language Skills at the 3rd grade 38%ile vs 27%ile) to 28.5 percentiles (59%ile vs 31%ile) at the 6th; and, staggeringly, from 8.0 percentiles in Composite Score at the 3rd grade (37%ile vs 29%ile) to 33.8 percentiles at the 6th (58%ile vs 25%ile).

This analysis showed conclusively that the educational performance of Mexican-American students as compared against their prior performance was declining rapidly and--when compared to the performance profile of their Anglo peers--decidedly unequally. The exclusion of Mexican-American students from the full benefits of the educational program was not only occurring but was substantially increasing (on its way to dropout) each

year. Pursuant to the final sentence of Section 2 of th Memorandum, an analysis of the assignment of pupils to 9th grade classes showing the correlation between verbal skill performance level and assignment to college preparatory and vocational track courses was conducted and very strong correlations observed. These students had been studied in depth in the preceding diachronic focus and the failure of the district to inculcate English language skills in the Mexican-American students had already been demonstrated.

Discussion with school district officials indicated that no action to equalize the access of Mexican-American students to the educational program had been taken by the district during the current school year and that none was planned for the foreseeable future.

Section 2

A program for proving noncompliance with the first part of Section 2 ("school distircts must not assign national origin-minority group students to classes for the mentally retarded on the basis of criteria which essentially measure or evaluate English language skills") was developed by means of a review of permanent record folders of students assigned to such classes. The tests utilized and scores attained (particularly on the Verbal IQ Subtest) reveal a heavy bias toward the evaluation of English language skills. The other major assignment criteria, teacher evaluation and achievement tests results, were heavily geared to educational performance in the language skill area

(e.g., reading, ability to communicate ideas [in English]). A technique for proving discrimination in the operation of the assignment process has also been developed with primary attention devoted to: (1) the discriminatory overinclusion of minority group students, (2) the discriminatory underinclusion of Anglo students, and (3) the use of a different standard of effort and thoroughness in the evaluation of students based on their race, color, or national origin.

Section 3

The general prohibitions against the discriminatory use of ability grouping or tracking techniques to segregate Mexican-American children set forth in Section 3 of the Memorandum have been expanded to require school districts to evince a comprehensive, educationally coherent rationale for any racially imbalanced ability grouping or tracking scheme which rationale must include a clear statement of success criteria (related to upward movement), a detailed analysis of the nature and extent of and reasons for such separation, and an outline of both the instructional methodology to be employed in each grouping and the evaluation program to be utilized by the district to evaluate the success of the methodologies. In the pilot cases, the program development staff detected a racially discriminatory pattern of assignment to sections of various courses which was completely inconsistent with a "random" assignment technique alleged by the school district to be in use.

Section 4

The Department is currently undergoing extensive research and policy development activity as regards the school district's responsibility to adequately notify and involve parents in school affairs and activities. Proof of noncompliance with Section 4 of the Memorandum has been developed by (1) reviewing the written records of the school district as regards notification of parents (PTA meetings, truancy notices, school activity notices, etc.), (2) interviewing community and school district personnel to ascertain the language or languages in which meetings and activities are conducted, and (3) surveying the home language of parents of students (through home language data collection items utilized pursuant to Section 1).

Enforcement Action

In February of this year, a letter of noncompliance was sent to the first of the pilot districts. After discussing the analysis of data collected in the district pertaining to noncompliance with Sections 1, 2 and 3 of the Memorandum, the letter states:

> Therefore, it will be necessary that the district develop and implement a plan which will utilize all available resources to equalize the educational access of all children in order to eliminate significant differences in educational performance attributal to membership in any racial or ethnic group.
>
> * * *
>
> One consequence of your district's failure to meet the educational needs of the minority pupils is an undue concentration of such pupils placed in Special Education classes for the mentally retarded on the basis of criteria which essentially measure and evaluate English language skills.
>
> In connection with the failure of the school district to take effective affirmative steps to equalize access to the educational program, Mexican-American children appear to have been denied access to college preparatory courses on a basis directly related to the system's failure to inculcate English language skills. The decline previously noted in the educational performance of the students with language difficulties carries through to high school where although Mexican-Americans constitute about 50% of the students, they comprise only about 10% of the advanced group and between 80% and 90% of the lower high school grouping of students not receiving college preparatory work. Although the total number of high school students is almost evenly distributed between Anglos and Mexican-Americans, almost two-thirds of those in college preparatory courses are Anglo and one-third are Mexican-Americans.

The letter concludes by offering the school district the services of an educational program team to work with the district to develop a compliance plan. Two weeks later the Department received a letter from the district requesting the services of the educational program

team. The Intra-departmental Advisory Committee subsequently dispatched a team to evaluate the district's educational program and to recommend appropriate changes.

Task Group on Implementation of the Memorandum

Immediately after release of the May 25 Memorandum, a Departmental task group was established to assist in its implementation. Outstanding Mexican-American and Puerto Rican educators, psychologists and community and civil rights leaders were invited to join the group. The avowed task of the group was to develop additional policies to particularize those discriminatory practices in each area of the Memorandum which resulted in noncompliance.

In June, 1970, the Task Group held its first meeting in Denver, Colorado, to discuss its responsibilities and determine policy development priorities. Individual work groups studied and discussed the issues raised in each of the substantive sections of the Memorandum.

It was decided that a productive initial focus for policy development would be the first part of the second section of the Memorandum dealing with the assignment of national origin minority group children to special education classes for the mentally retarded on the basis of criteria which essentially measure or evaluate English language skills. 12/ Accordingly, a committee of the task group was appointed to develop and present to the Task Group a draft policy covering the matter.

12/ See "The Six-Hour Retarded Child," A Report of the President's Committee on Mental Retardation (1970).

Policy development by the Task Group in this area has dealt with those basic components of a nondiscriminatory assignment mechanism which are indispensable to the adequate protection of rights. Such issues as the use of pluralistic norms (involving socio-cultural background data) to interpret test results, adaptive behavior data and the necessity and nature of community involvement are being carefully considered.

Intra-Departmental Advisory Committee

In view of the rapid program development of techniques for proving noncompliance, the Office of Education in April, 1971, established an Intra-Departmental Advisory Committee to develop strategies for, and supervise the rendering of educational program assistance to school districts found to be in noncompliance.

A group of approximately seventy-five outstanding Mexican-American, Puerto Rico and Native American educators, psychologists and community leaders met in San Diego on April 28-30 to begin the identification of bilingual/bicultural program models for the Office of Education.

The educational philosophy of the Committee is reflected in an excerpt from a letter with enclosures from HEW Secretary, Elliot Richardson, to Senator F. Mondale dated August 3, 1970:

The effects of ethnic isolation, rural and urban, on the educational development of Mexican American, Puerto Rican and American Indian children are both severe and long term. Ethnic isolation often creates a homogeneity of educational environment in which a perception of cultural diversity, without an assumption of cultural superiority, cannot occur. Moreover, this homogeneity effectively precludes the interaction of children from different socio-economic and ethnic home environments. Every major report or research project dealing with the educational problems and needs of "disadvantaged" children has concluded that educational development (learning) is greatly hindered by a homogenous learning environment. Children learn more from each other than from any other resource of the educational environment. To create and perpetuate honogeneity is to greatly reduce the pool of experience, ideas and values from which children can draw and contribute in interaction with other children. In a heterogenous educational environment cultural diversity can be presented in an exciting interaction/awareness/growth process which is education in its truest sense. This diversity can be presented and perceived as enriching the total human environment rather than as threatening to a particular cultural insularity.

Another important problem related to ethnic isolation relates to the effect of such isolation on educational motivation and psychological development of the isolated child. While the segregated Anglo child is equally deprived of a heterogeneity of educational environment which could

lead to increased educational development, he is rarely confronted with a school environment which directly rejects his language and, less directly, but just as devestatingly, rejects the culture of his home environment: lifestyle, clothes, food, family relationships, physical appearance etc. The Mexican-American, Puerto Rican and American Indian child is constantly isolated by an educationally sanctioned picture of American society which produces a consciousness of separation and then exclusion and then inferiority. Realizing his exclusion from the dominant Anglo society (as presented by the mass media, advertising, textbooks etc.), the child perceives a rejection by the society of his home which he personalizes as a rejection of his parents; and finally, a rejection of himself. This shattering process of self concept destruction often leads to withdrawal from or hositility toward the educational system. Attitude or posturing toward the learning environment is the single most important factor in the process of educational development.

Finally, the maintenance of ethnic isolation creates for the Spanish-speaking or Indian language-speaking child the additional disadvantage of depriving him of the most important resource for English language skill development--regular interaction and communication with English-speaking children.

In summary, some of the most important needs of Mexican-American, Puerto Rican and American Indian children related to ethnic isolation are:

(1) The need for ethnic or cultural diversity in the educational environment: HETEROGENEITY

(2) The need for total institutional reposturing (including culturally sensitizing teachers, instructional materials and educational approaches) in order to incorporate, affirmatively recognize and value the cultural environment of ethnic minority children so that the development of positive self-concept can be accelerated: BI-CULTURAL APPROACHES: with, as an important corollary:

(3) The need for language programs that introduce and develop English language skills without demeaning or otherwise deprecating the language of a child's home environment and thus without presenting English as a more valued language: BI-LINGUAL COMPONENT.

To meet the needs of ethnically isolated children described in numbers 2 & 3 above, participation of Anglo children in the Bi-Cultural/Bi-Lingual programs is essential.12/

The first item of business for the Committee (during the month of March) was the fielding of an educational program team to assist the first of the pilot districts found to be in noncompliance.

The HEW educational program team which visited the District last month set forth three basic principles underlying its recommendations:

- that the cultural and linguistic pluralism of the student body necessitates the utilization of instructional approaches (in addition to those now used) which reflect the learning styles, background and behavior of all segments of the student community; modification of curriculum design and the development of new instructional skills and materials are part of the development of pluralistic instructional approaches;

- that the educational program of the district incorporate, affirmatively recognize and value the cultural environment and language background of all of its children, so that the development of positive self concepts in all children of the district can proceed apace;

12/ Congressional Record, August 5, 1970

- that language programs be implemented that introduce and develop language skills in a secondary language (English for many Mexican-American students; Spanish for Anglo students), while at the same time, reinforcing and developing language skills in the primary language, so that neither English nor Spanish is presented as a more valued language.

The team concluded its report by recommending:

1. Introduction of an in-service training program designed to assist teachers in redefining their role in a bilingual/bicultural community and in the development of a curriculum that is relevant to the needs of all students. Initiation of a recruiting program is needed to substantially increase the number of bilingual/bicultural teachers and teacher aides as soon as possible.

2. Implementation of a program of instruction in each of the district's elementary schools, at all grade levels, that would reflect a bilingual/bicultural approach to the small group instructional methodology currently utilized by the District for Language Arts, Reading, Social Science, Mathematics and Creative Arts.

Such as approach would require the use of both English and Spanish as languages of instruction for all children, with the concurrent development of the primary and secondary language skills of all children, so that reading and writing are introduced in the child's primary language at the same time initial language development is begun in the second language. The ultimate goal of such an approach is to create a learning situation in which each child should be able to use both languages interchangeably as modes of learning and communicating.

The success of the above described program of instruction depends upon the reflection of the cultural pluralism of the student population in the curricular materials, teaching styles and learning environment of the classroom. The learning and incentive-motivational styles of all students should be carefully and regularly evaluated, and teaching strategies developed, modified and expanded accordingly. Diagnostic testing and teacher observation should be utilized to identify individual learning profiles.

Periodic assessment and evaluation of both the cognitive and affective development of children related to the program of instruction should be conducted. Conclusions drawn from such assessment and evaluations should be reflected in corresponding changes in the instructional approach.

3. Classroom and other instructional environments should be heterogenous in terms of race, ethnicity and socio-cultural background so as to assure that the process by which each child can draw from a pool of experience, ideas and values in order to contribute in interaction with other children is not stifled by a homogeneity of educational environment in which cultural superiority or inferiority, rather than cultural diversity, is perceived. Classrooms should be reorganized so as to create small instructional groupings to meet the individual educational needs of the students.

4. In order to bridge the gap between the community (including the home) and the school, community resources, including parents of children, older siblings and paraprofessionals, should be utilized in both instructional and non-instructional roles.

5. Assignment of students to classes for the educably mentally retarded should be predicated upon a careful review, by an advisory committee which includes persons broadly representative of the community, of the information developed by (a) psychometric indicators interpreted with medical and sociocultural background data, and the teacher's referral and (b) adaptive behavior data.

6. The establishment of an ongoing relationship with outside educational resources which can be of assistance in the development and implementation of the various programs discussed herein.

The culmination of the joint efforts of the pilot district and the department will be the implementation of a comprehensive educational plan utilizing all available resources of the district, human and financial (including Federal funds), to bring about an equally comfortable and accessible educational environment for all of the district's children. In such a setting, equal educational performance profiles can be brought about by individualized instructional techniques, predicated upon an understanding and utilization of the communication, learning and incentive-motivational styles of the children.

The Future

In the twelve months since the issuance of the May 25 memorandum, the Department of Health, Education and Welfare has developed a comprehensive program for implementation in the field. Techniques for proving noncompliance with the various sections of the memorandum have been developed and field tested and have passed legal muster. New issues are being investigated as training programs make operational these investigative and analytical techniques.

As the Office for Civil Rights completes its task of developing techniques for proving noncompliance, the importance of developing specific implementing policies and expanding its educational assistance resources becomes paramount.

The Department of Health, Education and Welfare will continue to place primary reliance on the policy development capabilities of both the Task Group and Advisory Committee, confident of both the skills and dedication of the educators, psychologists and community leaders involved.